THE BOMBAY CIVIL COURTS ACT, 1869.

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ACT No. XIV OF 1869.[1]

[THE BOMBAY CIVIL COURTS ACT, 1869.]

[*19th March 1869*].

Repealed in part, by Act 14 of 1870 ;
" " " " " 12 of 1876 ;
" " " " " 7 of 1889 ;
" " " " " 8 of 1890 ;
" " " " " 12 of 1891 ;
" by Bom. 1 of 1910 ;

Amended by Act 10 of 1876 ;
" " " 9 of 1880 ;
" " " 15 of 1880 ;
" " " 28 of 1930 ;
" " Bom. 3 of 1895 ;
" " " 1 of 1900 ;
" " " 5 of 1912 ;
" " " 5 of 1914 ;
" " " 6 of 1926 ;
" " " 9 of 1927 ;
" " " 7 of 1930.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

*Amended by Bom. 11 of 1942.
* " " " 20 of 1942.
* " " " 10 of 1945.

Adapted and modified by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

Amended by Bom. 22 of 1949.

An Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to the district and other subordinate Civil Courts in the Presidency of Bombay ; It is hereby enacted as follows :— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called the Bombay Civil Courts Act, 1869, and extends only [2][to those parts of the Province of Bombay in which the Code of Civil Procedure, 1908, is in force ; but the Provincial Government may, by notification in the Official Gazette, extend this Act to any other part of the said Province]. Short title. Extent.

2. [*Repeal of enactments.*] *Rep. Act XIV of 1870.*

[1] For Statement of Objects and Reasons, *see Gazette of India*, 1869, p. 100 ; and for Proceedings in Council *see ibid*, 1869, Supplement, pp. 59, 180, 185, 336, 421 and 464.

* These Acts were re-enacted by Bom. 48 of 1947.

[2] This portion was substituted for the original portion by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

PART II.

DISTRICTS AND SADR STATIONS.

Alteration and creation of districts.

3. The [1][Provincial Government] may from time to time, by a notification in the [2][Official Gazette], alter [3]the limits of existing zilas (which shall hereafter be called districts) and create new districts for the purposes of this Act.

Position of sadr station.

4. The [1][Provincial Government] may also from time to time, by notification in the [2][Official Gazette], alter the position of the sadr station in any district, and fix the position of the sadr station in any new district.

PART III.

DISTRICT COURTS.

District Judges.

5. There shall be in each district a District Court presided over by a Judge to be called the District Judge. [4]* * * * * * * * * * * * * * * [5]* * * *

Situation of District Court.

6. The District Judge shall ordinarily hold the District Court at the sadr station in his district, but may, with the previous sanction of the High Court, hold it elsewhere within the district.

Original jurisdiction of District Court.

7. The District Court shall be the principal Court of original civil jurisdiction in the district, within the meaning of the Code of Civil Procedure.

Appellate jurisdiction of District Court.

8. Except as provided in sections 16, 17 and 26, the District Court shall be the Court of Appeal from all decrees and orders passed by the subordinate Courts from which an appeal lies under any law for the time being in force.

Control and inspection of Courts.

9. The District Judge shall have general control over all the Civil Courts and their establishments within the district, and it shall be his duty to inspect, or to cause one of his assistants to inspect, the proceedings of all the Courts subordinate to him, and to give such directions with respect to matters not provided for by law as he may think necessary.

The District Judge shall also refer to the High Court all such matters as appear to him to require that a rule of that Court should be made thereon.

Writs and orders.

10. The District Judge shall obey all writs, orders or processes issued to him by the High Court, and shall make such returns or reports thereto under his signature and the seal of the Court as the exigencies of the case require.

Reports and returns.

He shall further furnish such reports and returns and copies of proceedings as may be called for by the High Court or the [1][Provincial Government].

Seal of District Judge.

11. The District Judge shall use a circular seal, two inches in diameter, which shall bear thereon [6][the Asoka Capital Motif], with the following inscription in English and the principal language of the district :—

" District Court of ".

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[1] The words " Provincial Government " were substituted for the words " Governor of Bombay in Council " by the Adaptation of Indian Laws Order in Council.

[2] The words " Official Gazette " were substituted for the words " Government Gazette ", *ibid.*

[3] In this connection, *see* section 22-A, *infra*.

[4] The words " he shall be appointed by the Governor of Bombay in Council, by whose authority only he shall be liable to be suspended or removed from his appointment " were omitted by the Adaptation of Indian Laws Order in Council.

[5] The words " The present Zila Judges shall be the first District Judges under this Act " were repealed by the Repealing Act, 1876 (12 of 1876).

[6] These words were substituted for the words " the Royal Arms " by Bom. 22 of 1949, s. 3.

PART IV.

JOINT JUDGES.

Power to appoint Joint Judges.

12. The [1][Provincial Government] may [2]* * * appoint in any District a Joint Judge who shall be invested with co-extensive powers and a concurrent jurisdiction with the District Judge, except that he shall not keep a file of civil suits and shall transact such civil business only as he may receive from the District Judge, or as may have been referred to the Joint Judge by order of the High Court.

[3]* * * * * * *.

Power to appoint District Judge or Assistant Judge in one district to be Joint Judge in another district.

[4][**12A.** The Provincial Government may appoint the District Judge or the Assistant Judge in any district to be also a Joint Judge in another district. Such Joint Judge may hold his court and transact civil business at such place or places in either district as he may deem fit.]

Enactments applied to Joint Judge. Joint Judge's seal.

13. All Regulations and Acts now or hereafter in force and applying to a District Judge shall be deemed to apply also to the Joint Judge; and the seal of the Joint Judge shall be the same as is used by the District Judge.

PART V.

ASSISTANT JUDGES.

Power to appoint Assistant Judges.

14. The [1][Provincial Government][5]* * may appoint one or more Assistants to the District Judge,

[6]* * * *

Situation of Assistant Judge's Court.

15. An Assistant Judge shall ordinarily hold his Court at the same place as the District Judge, but he may hold his Court elsewhere within the district, whenever the District Judge shall, with the previous sanction of the High Court, direct him so to do.

Original jurisdiction of Assistant Judge.

16. The District Judge may refer to any Assistant Judge subordinate to him original suits of which the subject-matter does not amount to ten thousand rupees in amount or value [7][applications or references under special Acts,] and miscellaneous applications not being of the nature of appeals.

The Assistant Judge shall have jurisdiction to try such suits and to dispose of such applications [7][or references].

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[1] The words "Provincial Government" were substituted for the words "Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "with the previous sanction of the Governor-General of India in Council" were repealed by section 3 and the 2nd Schedule of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

[3] The second clause of section 12 was repealed, *ibid.*

[4] S. 12A was inserted by s. 2 of the Bombay Civil Courts (Amendment) Act, 1942 (Bom. 11 of 1942), read with s. 3 of Bom. 48 of 1947.

[5] The words "under the general control of the Governor General of India in Council" and "and may suspend or remove from his appointment any Assistant so appointed" were omitted by the Adaptation of Indian Laws Order Council.

[6] The words "The present Assistant Judges shall be the first Assistant Judges under this Act" were repealed by the Repealing Act, 1876 (12 of 1876).

[7] These words were inserted by section 2 of the Bombay Civil Courts (Amendment) Act, 1900 (Bom. I of 1900).

Where the Assistant Judge's decrees and orders in such cases are appealable, the appeal shall lie to the District Judge or to the High Court according as the amount or value of the subject-matter does not exceed or exceeds five thousand rupees.

[1]* * * * * *

Appellate jurisdiction of Assistant Judge.

17. The [2][Provincial Government] may, by notification in the [3][Official Gazette], empower any Assistant Judge to try such appeals from the decrees and orders of the subordinate Courts as would lie to the District Judge and as may be referred by him to the Assistant Judge.

Decrees and orders passed under this section by an Assistant Judge shall have the same force and shall be subject to the same rules as regards procedure and appeals as decrees and orders passed by the District Judge.

Continuance of Assistant Judge's appellate jurisdiction.

18. A person filling the office of Assistant Judge, on whom the power of hearing appeals has once been conferred under section 17, shall continue to have this power so long and so often as he may fill the office of Assistant Judge, without reference to the district in which he may be employed:

Provided that the [2][Provincial Government] may, by notification in the [3][Official Gazette], at any time withdraw such power.

Power to invest Assistant Judge with powers of District Judge.

19. The [2][Provincial Government] may, by notification in the [3][Official Gazette] invest an Assistant Judge with all or any of the powers of a District Judge within a particular part of a district, and may, by like notification, from time to time determine and alter the limits of such part.

The jurisdiction of an Assistant Judge so invested shall *pro tanto* exclude the jurisdiction of the District Judge from within the said limits.

Every Assistant Judge so invested shall ordinarily hold his Court at such place within the local limits of his jurisdiction as may be determined by the [2][Provincial Government], and may, with the previous sanction of the High Court, hold it at any other place within such limits.

Assistant Judge to use seal of District Judge.

20. Every Assistant Judge shall use the seal of the District Judge to whom he is Assistant.

PART VI.

[4][CIVIL JUDGES].

Number of subordinate Civil Courts.

21. There shall be in each district so many Civil Courts subordinate to the District Court as the [2][Provincial Government], [5]* * * * * shall from time to time direct:

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[1] The words and figures "The Assistant Judge shall, when directed by the District Judge so to do, also take evidence on applications for certificates under Bombay Regulation 8 of 1827 (*to provide for the formal recognition of heirs, executors and administrators and for the appointment of administrators and managers of property by the Courts*), Act No. XXVII of 1860 (*for facilitating the collection of debts on successions and for the security of parties paying debts to the representatives of deceased persons*)" were repealed by the Succession Certificate Act, 1889 (7 of 1889), and the words and figures "and Act No. XX of 1864 (*for making better provisions for the care of the persons and property of minors in the Presidency of Bombay*) and shall forward it with his opinion thereon for the final orders of the District Judge," were repealed by the Guardians and Wards Act, 1890 (8 of 1890).

[2] The words "Provincial Government" were substituted for the words "Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "Official Gazette" were substituted for the words "Government Gazette", *ibid.*

[4] The heading "Civil Judges" was substituted for the heading "Subordinate Judges" by s. 2 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with Bom. 48 of 1947, s. 3.

[5] The words "acting under the general control of the Governer General of India in Council" were omitted by the Adaptation of Indian Laws Order in Council.

[1][Provided that for special reasons it shall be lawful for the [2][Provincial Government] at any time to close temporarily any such Subordinate Court.]

Appointment of [3][Civil Judges].

22. The Judges of such Subordinate Courts shall be appointed by the [2][Provincial Government], and shall be called [3][Civil Judges.]

[4]* * * * * *

Power to fix local limits of jurisdiction of [3][Civil Judges].

[5]**22A.** The [2][Provincial Government] may, by notification in the official Gazette, fix, and, by a like notification, from time to time, alter the local limits of the ordinary jurisdiction of the [3][Civil Judges.]

Situation of Subordinate Courts.

23. The [3][Civil Judges] shall hold their Courts at such place or places as the [2][Provincial Government] may from time to time appoint within the local limits of their respective jurisdictions :

[6][Provided that for special reasons it shall be lawful for the [2][Provincial Government] to order that a [7][Civil Judge] shall hold his Court at a place outside the local limits of his jurisdiction.]

Wherever more than one such place is appointed, the District Judge shall, subject to the control of the High Court, fix the days on which the [7][Civil Judge] shall hold his Court at each of such places, and the [7][Civil Judge] shall cause such days to be duly notified throughout the local limits of his jurisdiction.

The same person may be the Judge of more than one subordinate Court [8][and may dispose of the civil business of any one of his Courts at the headquarters of any other of his Courts] ; and in such cases the District Judge shall, subject to the control of the High Court, prescribe rules for regulating the time during which the [7][Civil Judge] shall sit in each Court.

Appointment of Joint [3][Civil Judges].

[9][For the purpose of assisting the Judge of any subordiinate Court in the disposal of the civil business on his file, [10][the High Court may appoint to such Court from the members of the Subordinate Civil Judicial Service of the Province] one or more Joint [3][Civil Judges], or the District Judge may, with the previous sanction of the

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[1] This proviso was inserted by section 3 of the Bombay Civil Courts (Amendment) Act, 1900 (Bom. 1 of 1900).

[2] The words "Provincial Government" were substituted for the words "Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "Civil Judges" were substituted for the words "Subordinate Judges" by s. 3 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with Bom. 48 of 1947, s. 3.

[4] The words "No person shall be appointed a Subordinate Judge unless he be a subject of Her Majesty or a subject of a Native Prince or State in India under the suzerainty of Her Majesty, and is also a person who has practised three years as an advocate of a High Court in India or as a vakil in the High Court of Judicature in Bombay, or who has qualified for the duties of a subordinate Judge according to such tests as may for the time being be prescribed by such High Court, or who has taken the degree of Bachelor of Laws in the University of Bombay.

The tests so prescribed by the High Court shall be notified in the Government Gazette" were omitted by the Adaptation of Indian Laws Order in Council.

[5] Section 22A was inserted by section 2 of the Bombay Civil Courts Act, 1880 (9 of 1880).

[6] This proviso was inserted by section 4 of the Bombay Civil Courts (Amendment) Act, 1900 (Bom. 1 of 1900).

[7] The words "Civil Judge" were substituted for the words "Subordinate Judge" by s. 4 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945) read with Bom. 48 of 1947, s. 3.

[8] The words "and may dispose of the civil business of any one of his Courts at the headquarters of any other of his Courts" were inserted by section 2 (*1*) of Bom. 7 of 1930.

[9] These two paragraphs were substituted for the original last paragraph of section 23 by Bom. 1 of 1900, section 4.

The original paragraph was as follows :—

"The Judge of any subordinate Court may, with the previous sanction of the High Court, be deputed by the District Judge to the Court of another Subordinate Judge for the purpose of assisting him in the disposal of the suits on his file."

[10] The words "the High Court may appoint to such Court from the members of the Subordinate Civil Judicial Service of the Province" were substituted for the words "the Governor of Bombay in Council may appoint to such Court" by the Adaptation of Indian Laws Order in Council.

High Court, depute to such Court the Judge of another subordinate Court within the district. A [1][Civil Judge] thus appointed or deputed to assist in the Court of another [1][Civil Judge] shall dispose of such civil business within the limits of his pecuniary jurisdiction as may, subject to the control of the District Judge, be referred to him by the Judge of such Court. [2][He may also dispose of the civil business of his Court at the place of his deputation subject to the general or special orders of the High Court in this behalf.]

Provisions applicable to Joint [3][Civil Judges].

For the purposes of this section the provisions of the Act applicable to [3][Civil Judges] shall be, and shall be deemed always to have been applicable to Joint [3][Civil Judges]: Provided that no such Joint [1][Civil Judge] shall hear and determine any suit instituted under section 4 of the Dekkhan Agriculturists' Relief Act, 1879, unless the value of the said suit falls within the limits of the pecuniary jurisdiction conferred on him by that Act.] XVII of 1879.

Classes of [3][Civil Judges].

24. The [3][Civil Judges] shall be of two classes.

Jurisdiction of [4][Civil Judge (Senior Division)].

The jurisdiction of a [4][Civil Judge (Senior Division)] extends to all original suits and proceedings of a civil nature.

Jurisdiction of [5][Civil Judge (Junior Division).]

The jurisdiction of a [5][Civil Judge (Junior Division)] extends to all original suits and proceedings of a civil nature wherein the subject-matter does not exceed in amount or value five thousand rupees.

[6][Provided that the [7][Provincial Government] may increase the limit of five thousand rupees to seven thousand and five hundred rupees in the case of any [5][Civil Judge (Junior Division)], of not less than ten years' standing and specially recommended in this behalf by the High Court. A [1][Civil Judge] so empowered shall continue to exercise this power so long and as often as he may fill the office of a [5][Civil Judge (Junior Division)] without reference to the District in which he may be employed, unless the powers are withdrawn by [8][the Provincial Government].

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[1] The words "Civil Judge" were substituted for the words "Subordinate Judge" by s. 4 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with Bom. 48 of 1947, s. 3.

[2] This sentence was added by section 2 (2) of Bom. 7 of 1930.

[3] The words "Civil Judges" were, substituted for the words "subordinate Judges" by s. 3 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with Bom. 48 of 1947, s 3.

[4] The words "Civil Judge (Senior Division)" were substituted for the words "Subordinate Judge of the first class" by s. 5 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with Bom. 48 of 1947, s. 3.

[5] The words "Civil Judge (Junior Division)" were substituted for the words "Subordinate Judge of the Second Class" by s. 6 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with Bom. 48 of 1947, s. 3.

[6] The proviso was added by section 3 of Bom. 7 of 1930.

[7] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[8] The words "the Provincial Government" were substituted for the words "Government", *ibid.*

Special jurisdiction of [1][Civil Judge (Senior Division).]

25. A [1][Civil Judge (Senior Division)] in addition to his ordinary jurisdiction, shall exercise a special jurisdiction in respect of such suits and proceedings of a civil nature, [2]* * * * * as may arise within the local jurisdiction of the Courts in the district presided over by [3][Civil Judges (Junior Division)] [4][and wherein the subject matter exceeds the pecuniary jurisdiction of the [5][Civil Judge (Junior Division)] as defined by section 24.]

In districts to which more than one [1][Civil Judge (Senior Division)] have been appointed, the District Judge, subject to the orders of the High Court, shall assign to each the local limits within which his said special jurisdiction is to be exercised.

Appeals from his decision.

26. In all suits decided by a [6][Civil Judge] [7]* * * * * * * * * of which the amount or value of the subject-matter exceeds five thousand rupees, the appeal from his decision shall be direct to the High Court.

Appellate jurisdiction of [1][Civil Judge (Senior Division)] or Judge of Court of Small Causes.

27. The [8][Provincial Government] may invest any [1][Civil Judge (Senior Division)] [9][or any Judge of the Court of Small Causes established under the Provincial Small Cause Courts Act, 1887, in any place to which this section extends] with power to hear appeals from such decrees and orders of Subordinate Courts as may be referred to him by the Judge of the district.

IX of 1887.

Decrees and orders so passed in appeal by a [1][Civil Judge (Senior Division)] [9][or a Judge of a Court of Small Causes] shall have the same force as if passed by a District Judge.

[10][A [1][Civil Judge (Senior Division)] or a Judge of a Court of Small Causes, on whom the power of hearing appeals has once been conferred under this section, shall continue to have this power so long and so often as he may fill the office of [1][Civil Judge (Senior Division)] or Judge of a Court of Small Causes respectively, without reference to the district in which he may be employed: Provided that the [8][Provincial Government] may, by notification in the [11][Official Gazette], at any time withdraw such power.]

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[1] The words "Civil Judge (Senior Division)" were substituted for the words "Subordinate Judge of the first Class" by s. 5 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with Bom. 48 of 1947, s. 3.

[2] The words "wherein the subject-matter exceeds five thousand rupees in amount or value" were omitted by section 4 (*1*) of Bom. 7 of 1930.

[3] The words "Civil Judges (Junior Division)" were substituted for the words "Subordinate Judges of the Second Class" by s. 7 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with Bom. 48 of 1947 s. 3.

[4] These words and figures were added by section 4 (*2*), of Bom. 7 of 1930.

[5] The words "Civil Judge (Junior Division)" were substituted for the words "Subordinate Judge of the Second Class" by s. 6 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with Bom. 48 of 1947, s. 3.

[6] The words "Civil Judge" were substituted for the words "Subordinate Judge" by s. 4 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with Bom. 48 of 1947.

[7] The words "of the first class in the exercise of his ordinary and special original jurisdiction" were repealed by section 2 of Act 28 of 1930.

[8] The words "Provincial Government" were substituted for the words "Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

[9] These words were inserted by section 5 of the Bombay Civil Courts (Amendment) Act, 1900 (Bom. I of 1900.)

[10] This paragraph was substituted for the original paragraph by Bom. 1 of 1900, section 5. The original paragraph was as follows:—

"The Governor of Bombay in Council may, whenever he thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested."

[11] The words "Official Gazette" were substituted for the words "Government Gazette" by the Adaptation of Indian Laws Order in Council.

Power to invest [5][Civil Judge] with small cause powers.

128. [2][The High Court, under the general superintendence of the Provincial Government may] invest, within such local limits [3]as [4][it] shall from time to time appoint, any [5][Civil Judge] with the jurisdiction of a Court of Small Causes for the trial of suits cognizable by such Courts up to such amount as [4][it] may deem proper, not exceeding in the case of any [6][Civil Judge (Senior Division)] one thousand rupees, and in the case of any [7][Civil Judge (Junior Division)] [8][three hundred] rupees.

[2][The High Court, under the general superintendence of the Provincial Government may] whenever [4][it] thinks fit, withdraw such jurisdiction from any [5][Civil Judge] so invested.

Power to invest [5][Civil Judges] with jurisdiction under certain Acts.

[9][**28A.** (*1*) The High Court may by general or special order invest any [5][Civil Judge], within such local limits and subject to such pecuniary limitation as may be prescribed in such order, with all or any of the powers of a District Judge or a District Court as the case may be under the Indian Succession Act, 1865, [10]The Probate and Administration Act, 1881,[10] or paragraph 5 of Schedule III to the Code of Civil Procedure, 1908. X of 1865 V of 1881. V of 1908.

(*2*) Every order made by a [5][Civil Judge] by virtue of the powers conferred upon him under sub-section (*1*) shall be subject to appeal to the High Court or the District Court according as the amount or value of the subject-matter exceeds or does not exceed five thousand rupees.

(*3*) Every order of the District Judge passed on appeal under sub-section (*2*) from the order of a [5][Civil Judge] shall be subject to an appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals from appellate decrees.

Seal of [5][Civil Judge.]

29. Each [5][Civil Judge] shall use a seal one inch and a-half in diameter, bearing [11][the Asoka Capital Motif] with the following inscription in English and the principal language of the district :—" [5][Civil Judge] of ."

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[1] The first paragraph of this section was substituted for the original paragraph by section 6 of Bom I of 1900.

The original paragraph was as follows :—

" The Governor of Bombay in Council may invest, within such local limits as he shall from time to time appoint any Subordinate Judge of the first class with the jurisdiction of a Judge of a Court of Small Causes, for the trial of suits cognizable by such Courts up to the amount of five hundred rupees, and any Subordinate Judge of the second class with the same jurisdiction up to the amount of fifty rupees."

[2] The words " The High Court, under the general superintendence of the Provincial Government, may " were substituted for the words " The Provincial Government may " by s. 2 of the Bombay Civil Courts (Second Amendment) Act, 1942 (Bom. 20 of 1942), read with s. 3 of Bom. 48 of 1947.

[3] That is, in territories other than those in which the Dekkhan Agriculturists' Relief Act, 1879 (17 of 1879), is in force ; *see* section 5 of Act 17 of 1879, *infra*.

[4] The word " it " was substituted for the word " he " by the Adaptation of Indian Laws Order in Council.

[5] The words " Civil Judge " were substituted for the words " Subordinate Judge " by s. 4 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with, Bom. 48 of 1947, s. 3.

[6] The words " Civil Judge (Senior Division)" were substituted for the words " Subordinate Judge of the First Class, *ibid* s. 5.

[7] The words " Civil Judge (Junior Division) " were substituted for the words " Subordinate Judge of the Second Class ", *ibid*, s. 6.

[8] The words " three hundred " were substituted for the words " two hundred " by section 5 of Bom. 7 of 1930.

[9] Section 28A was inserted by section 2 of the Bombay Civil Courts (Amendment) Act, 1912 (Bom . 5 of 1912).

[10] *See* now the Indian Succession Act, 1925.

[11] These words were substituted for the words " the Royal Crown " by Bom. 22 of 1949, s. 4.

30, 31. [*First Subordinate Judges ; pending proceedings.*]*Rep. Act XII of 1876.*

Government suits.

[1][**32.** (*1*) No subordinate court other than the court of a [2][Civil Judge (Senior Division)] and no court of small causes shall receive or register any suit in which [3][the Crown] or any officer of [4][the Crown] in his official capacity is a party.

(*2*) In every such case the plaintiff shall be referred to the court of the [2][Civil Judge (Senior Division)] and such suit shall be instituted only in the court of the [2][Civil Judge (Senior Division)] and shall be heard by such [5][Civil judge], subject to the provisions of section 24 of the Code of Civil Procedure, 1908.

V of 1908.

(*3*) Nothing in this section shall be deemed to apply to a suit against the administration of a Government railway ; or to apply to any suit merely because an officer of [4][the Crown] is a party thereto, in his capacity of—

(*a*) member of a local authority,

(*b*) curator, guardian, manager or representative of a private person or estate in virtue of an appointment, delegation, declaration or exercise of powers under:—

V of 1908. (*i*) Order 32, rule 4 (4), of the Code of Civil Procedure, 1908 ;

IV of 1912. (*ii*) section 69 or 71 of the Indian Lunacy Act, 1912 ;

VIII of 1890. (*iii*) section 7, 18 or 42 of the Guardians and Wards Act, 1890 ;

Bom. VI of 1862. (*iv*) section 1 or 17 of the Ahmedabad Talukdars' Act, 1862 ;

Bom. I of 1905. (*v*) section 3, 19 (*1*), 19 (*2*), 20, 22 (*1*) or 41 (*1*) of the Bombay Court of Wards Act, 1905].

REMOVAL OR SUSPENSION.

33. [*Commission of inquiry into alleged misconduct.*] *Omitted by the Adaptation of Indian Laws Order in Council.*

34. [*Suspension of Subordinate Judges by High Court ; by District Judge Saving power of Government to suspend or dismiss.*] *Omitted, ibid.*

PART VII.

TEMPORARY VACANCIES.

Temporary vacancy of office of District Judge.

35. In the event of the death of the District Judge or of his being prevented from performing his duties by illness or other casualty, or of his absence from his district on leave, the first in rank of the Assistant Judges in the district, or in the absence from the district of an Assistant Judge the first in rank of the [6][Civil Judges], shall assume charge of the District Court without interruption to his ordinary jurisdiction, and while so in charge shall perform the duties of a District Judge with respect to the filing of suits and appeals, receiving pleadings, execution of processes, return of writs and the like, and shall be designated Assistant

[1] This section was substituted for the original section 32 by section 2 of the Bombay Civil Courts (Amendment) Act, 1926 (Bom. VI of 1926).

[2] The words "Civil Judge (Senior Division)" were substituted for the words "Subordinate Judge of the First Class" by s. 5 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with Bom. 48 of 1947, s. 3.

[3] The words "the Crown" were substituted for the words "the Secretary of State for India in Council" by the Adaptation of Indian Laws Order in Council.

[4] The words "the Crown" were substituted for the word "Government", *ibid.*

[5] The words "Civil Judge" were substituted for the words "Subordinate Judge" by s. 4 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with Bom. 48 of 1947, s. 3.

[6] The words "Civil Judges" were substituted for the words "Subordinate Judges", *ibid.*

Judge or [1][Civil Judge], as the case may be, in charge of the district, and shall continue in such charge until the office of District Judge may be resumed or assumed by an officer duly appointed thereto.

Delegation of powers of District Judge.

36. Any District Judge leaving the sadr station and proceeding on duty to any place within his district may delegate to an Assistant Judge, or in the absence of an Assistant Judge to [1][Civil Judge] at the sadr station, the power of performing such of the duties enumerated in section 35 as may be emergent; and such officer shall be designated Assistant or [1][Civil Judge], as the case may be, in charge of the sadr station.

Temporary vacancy of office of Subordinate Judge.

37. In the event of the death, suspension or temporary absence of any [1][Civil Judge], the District Judge may empower the Judge of any subordinate Court of the same district to perform the duties of the Judge of the vacated subordinate Court, either at the place of such Court or of his own Court; but in every such case the registers and records of the two Courts shall be kept distinct.

PART VIII.

MINISTERIAL OFFICERS.

38. [*Appointment etc., of ministerial officers.*] *Omitted by the Adaptation of Indian Laws Order in Council.*

Duties of ministerial officers.

39. The duties of [2][the ministerial officers of the Civil Courts] shall be regulated by such rules as the High Court may from time to time prescribe.

Power to appoint clerks of the Courts.

40. [3][There may be appointed to any Civil Court under this Act] a clerk of the Court, who, in addition to such duties as may from time to time be prescribed by the High Court, may receive and register plaints, and shall refer such as he may consider should be refused for the orders of the Judge of the Court, and may sign all processes, and authenticate copies of papers.

40A. [*Power to transfer clerks of the Court or ministerial officer.*] *Omitted by the Adaptation of Indian Laws Order in Council.*

PART IX.

MISCELLANEOUS.

Rules for keeping proceedings.

41. The proceedings of each Civil Court shall be kept and recorded according to such rules as the High Court may from time to time prescribe. The High Court shall also lay down rules under which copies of papers may be granted.

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[1] The words "Civil Judge" were substituted for the words "Subordinate Judge" by s. 4 of the Bombay Civil Courts (Amendment) Act, 1945 (Bom. 10 of 1945), read with Bom. 48 of 1947, s. 3.

[2] The words "the ministerial officers of the Civil Courts" were substituted for the words "the said ministerial officers" by the Adaptation of Indian Laws Order in Council.

[3] The words "There may be appointed to any Civil Court under this Act" were substituted for the words "The District Judge may, under the general control of the Governor of Bombay in Council, appoint to any Civil Court under this Act within the local limits of his jurisdiction", *ibid.*

[1][**41A.** (*1*) The High Court may, from time to time, make rules consistent with this Act and any other enactment for the time being in force— Licensed petition-writers.

(*a*) declaring what persons shall be permitted to act as petition-writers in the Courts subordinate to it;

(*b*) regulating the issue of licenses to such persons, the conduct of business by them, and the scale of fees to be charged by them; and

(*c*) providing a penalty of fine not exceeding fifty rupees for the breach of any of the rules so made, and determining the authority by which such breaches of the rules shall be investigated and the penalties imposed.

(*2*) Every fine imposed under clause (*c*) of sub-section (*1*) shall be recoverable as if it were a fine imposed by a Magistrate in the exercise of his ordinary jurisdiction.]

42. The High Court shall from time to time, with the sanction of the [2][Provincial Government], prescribe and regulate the fees to be taken for any process issued by any Court the constitution of which is declared by this Act, or by any officer of such Court. Fees for process.

Tables of the fees so prescribed shall be published in the [3][Official Gazette].

43. The District and Subordinate Courts shall sit from day to day except on Sundays, New Year's Day, Good Friday, Christmas Day and Her Majesty's Birthday, and such other days as may be sanctioned for each or every district by the High Court. Sittings of Courts.

The High Court may also permit the Civil Courts under its control to adjourn for a period or periods not exceeding in the whole six weeks in each year. Vacation.

THE SCHEDULE.

ENACTMENTS REPEALED.

[Rep. Act XIV of 1870.]

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[1] Section 41A was insertded by section 9 of the Bombay Civil Courts (Amendment) Act, 1900, (Bom. 1 of 1900).

[2] The words "Provincial Government" were substituted for the words "Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "Official Gazette" were substituted for the words "Government Gazette", *ibid.*